

REMARKS/ARGUMENTS

In the Office Action dated March 15, 2007 claims 1-11, 14-23, 28-34, 37, 42-49, 52-58 and 87-94 were rejected under 35 U.S.C. §103(a) as being unpatentable over McDermott (3,965,589) in view of Tinklenberg et al. (3,965,589) and further in view of various combinations of Grose et al. (2002/0054940), Castagna (5,503,114) and/or Duncan (6,058,637). Applicant traverses these rejections for the following reasons.

As amended, the claims of the present invention are directed to an identification tag and/or tag system for use with an infant or small child. In this case the age of the wearer is eminently relevant to the patentability of the claimed invention. As clarified in the amended claims the identification tag is designed for use with a "small diameter" closed loop wristband placed around the wrist or ankle of an infant or small child. If the wristband loop is not of sufficiently small diameter the wristband may easily slide over the hand or foot of the infant or small child thereby separating the patient from its identification means. Such separation would frustrate the purpose of the identification tag system. The small diameter of the wristband presents a significantly greater degree of curvature of said wristband as compared to a similar wristband placed on the wrist or ankle of an adult. Such wristband placed upon the wrist or ankle of an adult would not have the "small diameter closed loop shape" and therefore not experience the significant curvature presented in use with infants and children.

This high degree of curvature presents problems in reading the information on the identification tag. An identification tag bearing printed information that is subject to a high degree of curvature would likely make it difficult for an observer to read the printed information without revolving the wristband about the wrist or ankle thereby disturbing the wearer. A bar code printed on a curved identification tag may become too distorted to be reliably read without smoothing the wristband or revolving the same about the wrist or ankle again thereby disturbing the wearer. In addition, an RFID circuit on an identification tag subjected to a high degree of curvature may become

damaged and cease to function because of repeated curving or bending. Therefore it is desirable to have an identification tag on a wristband that will not be subjected to the high degree of curvature associated with the wrist or ankle of a small child.

To more clearly set forth this feature of the claims applicant has amended the independent claims to include a limitation "wherein said identification tag is mounted onto the exterior of said wristband such that the long dimension of the tag extends generally perpendicular to a long dimension of said wristband". This configuration of identification tag to wristband exposes the short dimension of the identification tag to the curvature associated with the small diameter wrist or ankle of the infant or child rather than the long dimension. This association minimizes the degree of curvature of the tag thereby minimizing the likelihood that the infant or child will be disturbed in order to clearly read the information or that the tag will be damaged by the curvature.

McDermott fails to teach an identification tag for attachment to the small diameter wrist or ankle of infant or small child. The cited portion of McDermott, Fig. 7 and element 22, fails to disclose an identification tag for attachment to the wrist of an infant or small child. According to the description in McDermott, element 22 is a tether which is used to attach an encoded identification plate 56 to a band portion 21. There is no mention in McDermott of the tether 22 being placed around the small diameter wrist or ankle of an infant or small child. In addition, the manner in which the identification plate 56 is attached to the tether 22 would leave a portion that would rub on or dig into the flesh around the wrist or ankle of an infant or small child thereby generating discomfort. This is contrary to the stated purposes of the present invention to present a comparatively comfortable and compliant structure.

As stated in the Office Action, the identification tag shown in McDermott does not include a pair of slots for receiving the wristband thereby resulting in the configuration where the long dimension of the tag extends generally perpendicular to the long dimension of the wristband. In support of this teaching the Office Action relies upon Tinklenberg, which shows a tag for banded merchandise, described as a "clump of agricultural produce" held together by a rubber band, twist tie band or other band of

string type material. The teachings of Tinklenberg are so far removed from the teachings and goals of the present invention that it clearly constitutes non-analogous art. A person having ordinary skill in the art seeking to design an identification tag system for an infant or small child that addresses issues of comfort as well as issues of readability of the identification tag would not look to Tinklenberg.

Tinklenberg is not concerned with the "comfort" of the agricultural produce. Nor is it concerned with the ease with which the information on the marking tag is read. Unlike an infant or small child, the agricultural produce in Tinklenberg may be manipulated and turned in any direction in order to read the tag without disturbing the produce. In contrast, the arm or leg of an infant or small child may not be manipulated in whatever direction is most convenient for reading the tag. To do so may disturb an infant or small child which is asleep or in discomfort, or even cause injury.

For these reasons the cited combinations of prior art fail to render the claims unpatentable under 35 U.S.C. §103(a). Applicant submits that claims 1-11, 16-23, 28-34, 37, 42-49, 52-58 and 87-94 are now in condition for allowance, notice of which is respectfully requested.

Respectfully submitted,

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